

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte HANS-JURGEN REISMANN and KONRAD HAMRATHS

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Appeal No. 96-3441  
Application 08/137,868<sup>1</sup>

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HEARD: FEBRUARY 3, 1998

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Before ABRAMS, FRANKFORT and McQUADE, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

This appeal, filed in response to the final rejection dated June 19, 1995 (Paper No. 7), involves claims 2 through 4, 7 and 9, all of the claims pending in the application.<sup>2</sup>

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<sup>1</sup> Application for patent filed October 15, 1993.

<sup>2</sup> Claims 2, 3 and 7 were amended and claim 9 was added subsequent to the final rejection.

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The invention relates to a rolling mill stand constructed to facilitate roll replacement. Claim 9 is illustrative and reads as follows:

9. A universal rolling mill stand, comprising:

a drive side roll mount;

an operator's side roll mount extending parallel to the drive side roll mount and adapted to move away therefrom; and

an alternate frame, in which horizontal and vertical rolls are mounted and which is removably locked to the operator's side roll mount for joint movement therewith and for disengagement therefrom, wherein the alternate frame includes projections which support an adapter and extend in the region of the vertical rolls into the roll mounts.

The references relied upon by the examiner as evidence of obviousness are:

Stubbins	4,974,438	Dec. 4, 1990
Tajima et al. (Tajima) <sup>3</sup> (Japanese Patent Document)	54-139866	Oct. 30, 1979
Field (British Patent Document)	2 034 222	Jun. 4, 1980

The claims on appeal stand rejected under 35 U.S.C. § 103 as follows:

a) claims 2, 7 and 9 as being unpatentable over Field in view of Tajima; and

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<sup>3</sup> An English language translation of this reference, prepared by the Patent and Trademark Office, is appended hereto.

b) claims 3 and 4 as being unpatentable over Field in view of Tajima, and further in view of Stubbins.

Field discloses a rolling mill arrangement which includes a mill stand 10 and a roll assembly platform 18. The platform is located adjacent the stand and is adapted to carry two roll assemblies for interchangeable mounting on the stand. The roll assemblies contain different roll configurations which can be pre-adjusted for spacing and attitude to produce products having different shapes. One of the roll assemblies is a universal roll assembly 44U and the other is a "two-hi" assembly 44T. The stand includes drive and operator side roll mounts, each in the form of a pair of standards 20 connected at their tops by junction 22 and at their bottoms by base member 24. These side roll mounts are joined to one another at their tops by member 56 and at their bottoms by base 58 so as to form a unitary rigid structure. This unitary rigid structure is transversely movable between its operative position and a position adjoining the platform to allow the roll assemblies to be transferred between the two. In this regard, both the mill stand and the platform contain transversely extending rails along which the roll assemblies ride. The platform is longitudinally movable relative to the stand to suitably align the rails.

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The examiner concedes that the Field roll mill arrangement does not meet the limitation in independent claim 9 requiring the operator's side roll mount to be adapted to move away from the drive side roll mount (see page 3 in the answer, Paper No. 13). As indicated above, Field's side roll mounts are joined to one another in a unitary rigid structure and there is no suggestion that one can be moved relative to the other.

Tajima discloses a rolling mill arrangement having a drive side roll mount in the form of driving side housing 4 and an operator side roll mount in the form of operating side housing 5. The operator side housing is adapted to be moved toward and away from the drive side housing to accommodate different roll assemblies for producing differently shaped products.

According to the examiner,

[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to adapt the operator's side roll mount in [Field] to move away from the drive side roll mount. One skilled in the art is considered to be motivated to use an operator's side roll mount which is adapted to move away from the drive side roll mount to enable the production of diverse product shapes, as shown to be desirable by [Tajima] [answer, page 4].

The appellants, on the other hand, argue that

[b]oth references are directed to solving of the same problem, namely, to provide for rolling of differently shaped products . . . . This problem is solved in [Tajima] by making the operator's side roll mount

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movable away from the drive side roll mount, and in [Field] by providing a mill roll assembly, such as shown in Fig. 3, movable relative to a stationary operator's side roll mount. As both references are directed to solving one and the same problem, it is unclear what advantages making the operator's side roll mount in [Field] movable would provide [reply brief, Paper No. 15, pages 3 and 4].

Given the fair teachings of Field and Tajima, the appellants' position is well founded. The Field and Tajima rolling mill arrangements are each adapted, in very different ways, to produce products having diverse shapes. Since the Field arrangement already has this capability, the modification in view of Tajima proposed by the examiner would seem to be completely unnecessary. In this light, it would appear that the only suggestion for combining Field and Tajima in the manner advanced by the examiner stems from hindsight knowledge derived from the appellants' own disclosure. The use of such hindsight knowledge to support a conclusion of obviousness is, of course, impermissible. See W.L. Gore & Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Accordingly, we shall not sustain the standing 35 U.S.C. § 103 rejection of claim 9, or of claims 2 and 7 which depend therefrom, as being unpatentable over Field in view of Tajima.

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Nor shall we sustain the standing 35 U.S.C. § 103 rejection of dependent claims 3 and 4 as being unpatentable over Field in view of Tajima, and further in view of Stubbins. In short, Stubbins does not cure the foregoing deficiency of the basic Field-Tajima combination with respect to the subject matter recited in parent claim 9.

The decision of the examiner is reversed.

REVERSED

NEAL E. ABRAMS	)	
Administrative Patent Judge	)	
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	)	
	)	
CHARLES E. FRANKFORT	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
JOHN P. McQUADE	)	
Administrative Patent Judge	)	

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